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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-seventh session

SUMMARY RECORD OF THE 1418th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 11 August 2000, at 10 a.m.

Chairman: Mr. SHERIFIS

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GE.00-43944 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Thirteenth and fourteenth periodic reports of Sweden (CERD/C/362/Add.5- HRI/CORE/1/Add.4) (continued)

1. At the invitation of the Chairman, the members of the delegation of Sweden resumed their places at the Committee table.

2. Mr. MAGNUSON (Sweden), replying to the Committee's questions and comments about paragraph 33 of his country's report, confirmed that no distinctions were made in official statistics on grounds of ethnic origin, although there were statistics showing the number of foreigners living in the country by nationality. It should be borne in mind, however, that after five years' residence foreigners were able to obtain Swedish nationality, which meant that thereafter their national background no longer appeared in official statistics. Sweden did not intend to change its position as set out in that paragraph and was pleased to note the comments made by Mr. Aboul-Nasr on the subject.

3. Responding to Mr. de Gouttes, he said that the dualistic tradition relating to the status of international treaties in Sweden did not entail a risk that the country would not live up to its international obligations. Prior to the ratification of international agreements, including the Convention, a thorough analysis was conducted as to whether the obligations in question required a change in domestic legislation or the introduction of new laws.

4. With regard to the Samis, Sweden had recently ratified the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages and the relevant legislation had now entered into force. The use of the Sami language in courts and administrative affairs was restricted to the five most northerly municipalities in Sweden. Similarly, the use of Finnish was limited to four municipalities. Those were the areas where the languages in question had established roots and were widely spoken. There were some other areas where the Sami language and reindeer husbandry were practised, but only by very few people. Indeed, the most southerly Sami dialects were on the brink of extinction, which was regrettable from the point of view of cultural diversity.

5. With reference to Sami land rights, a summary in English had been distributed concerning the latest official inquiry regarding the possibility of ratifying International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169, 1989) together with a map in Swedish of the Sami villages located throughout the country. Those villages constituted administrative units rather than physical entities. In fact, most Samis lived in ordinary communities. The possible ratification of ILO Convention No. 169 affected territories covering approximately one third of the whole country, although it was difficult to define the exact area where reindeer husbandry was practised. The possibility of introducing legislation or making changes so as to maintain an economically and culturally sustainable form of such husbandry was currently under study. Approximately 2,000 people were engaged in that activity, but not the majority of Samis.

6. The privatization process under way would not erode land rights for the practice of reindeer husbandry. In accordance with a Supreme Court judgement, Samis had the right to use both private and government land, by virtue of a right of usufruct, or servitude, protected by law, on the land in question. If the land were used so as to impair that servitude, the Sami village in the area in question was entitled to compensation, which had in fact been granted in a number of cases over the years. In general terms, Samis had the same land ownership rights as all other people. Likewise, Samis were not deprived of hunting and fishing rights on land belonging to others; they merely shared those rights with others according to the needs of reindeer husbandry. As to the provision of legal aid in disputes concerning the right to traditional winter pastures, the Government had allocated funds to the Sami Foundation, which would enable Sami villagers as legal persons to pursue those disputes. On the whole, a large amount of legislation relating to Samis existed, contrary to what had been stated by Mr. Diaconu.

7. In relation to the Living History Project, the message put out by the Stockholm International Forum on the Holocaust was that societies could not tolerate racism or xenophobia. The idea for the Project had been proposed by the Swedish Prime Minister in response to a study which had shown that very few Swedish schoolchildren were aware of the Holocaust. A booklet had been issued as part of the general government campaign to combat racism, intolerance and neo-Nazism. Similar initiatives by other States should be encouraged by the Committee.

8. Regarding the position of the Swedish Government on draft Protocol No. 12 to the European Convention on Human Rights, Sweden had abstained from casting a vote on the draft protocol at a meeting of the Council of Europe Steering Committee for Human Rights for several reasons. Among them were doubts about the efficiency and scope of the instrument, which should have contained more precise provisions covering the most frequently affected areas, and failed, in the operative paragraphs, to mention positive measures to promote equality between different groups. Moreover, it was unclear to what extent Contracting States would be held liable by individuals. Finally, an expansion of the complaints mechanism would only add to the European Court of Human Rights' already very heavy workload.

9. The Swedish Delegation on Indigenous People had been set up to publicize the General Assembly's decision to declare the 1990s the International Decade of the World's Indigenous People. The Delegation had been mandated to take initiatives aimed at promoting greater understanding of the lives and affairs of indigenous populations, and had notably taken measures to encourage greater recognition of the education of Samis and the situation of Sami women and youth.

10. Swedish asylum policy was the focus of a debate in the national media. The various political parties had different views as to whether the policy was restrictive or not. In fact, Sweden had one of the highest numbers of asylum-seekers in Europe, currently around 12,000 to 13,000. The figure had decreased since the beginning of the 1990s, when the country had been faced by an influx of refugees from the former Yugoslavia. There was an ongoing process to monitor legislation on the asylum process, in close cooperation with the United Nations High Commissioner for Refugees (UNHCR). Sweden was one of the few countries with a refugee quota, enabling people to be brought to the country from refugee camps all over the world.

11. Ms. LINDELÖR (Sweden) said that her Government had maintained a constant position on the question of banning certain organizations. In accordance with the Penal Code, agitation against ethnic groups with a racist or xenophobic motive constituted a crime. Similarly, the dissemination, even within small groups, of messages with racist content was forbidden. In that sense, all activity of a racist nature per se was prohibited.

12. There was an ongoing debate on the possibility of introducing a ban on organizations involved in such activities. A widely-held view was that such a ban would generate more publicity for such groups and lead to an increase in their membership, thus giving the general public a false impression of the groups. The question whether a ban would infringe the principle of freedom of association had also been raised. In countries where cases had been tried in relation to such a ban, and the organizations concerned had been found not to be racist, it had been easy for the public to consider the organizations to be legitimate and for them to be accepted by society. After a parliamentary debate on a recent case, in which a trade unionist had been killed by three neo-Nazi youths, the political consensus reached had been that a ban should not be introduced. Nevertheless, aware as the Government was of the problem, a parliamentary committee had been set up to consider whether indirect participation in such organizations, in the form of financing or the letting of premises, should be penalized, and whether the provision of the Penal Code relating to agitation against ethnic groups was sufficient to prevent the organizations perpetrating such agitation from functioning. The scale of penalties against agitation was also being reviewed. In addition, agitation against ethnic groups was a crime under the Freedom of the Press Act and the Fundamental Law on Freedom of Expression. Under those Acts, a time limit of one year from the moment when the product in question was disseminated was imposed for the purposes of prosecution. Since it was very difficult to determine when the period in question began, the Government had set up a special committee to review the matter, which would operate until 31 December 2000.

13. The civil servant appointed to the post of Chancellor of Justice acted as prosecutor in cases of agitation against ethnic groups brought under the Fundamental Law on Freedom of Expression and the Freedom of Expression Act. If the case was found not to fall within those laws, the Prosecutor General would be responsible for prosecution under the Penal Code.

14. The relevant provisions of the Penal Code were frequently invoked in cases where the motive was proven to be racist. National or ethnic motivation for a crime committed against a person was considered an aggravating circumstance. The Prosecutor General had recommended that all prosecutors should refer to those provisions in the application for a summons for prosecution. Similarly, the national courts administration was considering whether it should be mandatory for a provision to be cited in court judgements. Such a move would lead to the production of enhanced statistics on the matter.

15. A great deal of publicity had been given to unlawful discrimination in the previous two years, in particular concerning admission to public places such as restaurants and discotheques. The Prosecutor General had made specific recommendations on the handling of such cases so as to improve the investigative methods used, in particular by police officers. The National Police Board had produced a manual on the methods to be used in investigating cases of racist and xenophobic violence, which included requirements for close cooperation between the different bodies and careful planning. Ninety cases of unlawful discrimination had been investigated

in 1998. The Stockholm Office of Public Prosecution had considered the issue of unlawful discrimination and had concluded that the standard of proof upheld by courts was extremely high. In general terms, it was very difficult to prove that the fact that victims of unlawful discrimination belonged to particular ethnic groups was the reason for the discrimination to which they were subject. A committee of inquiry on unlawful discrimination had been set up by the Government to review the relevant provisions of the Penal Code and their application and to consider specific issues such as insurance, the possibility of obtaining credits and housing. It was also considering whether discrimination should be made unlawful on the grounds of the race of a person connected to the victim in some way, was studying the question of intent, and was examining whether civil regulations would be more effective than the Penal Code in cases of unlawful discrimination. The issues under consideration required investigation in accordance with a European Union directive relating to race and ethnicity.

16. With reference to compensation in cases of unlawful discrimination, damages could be awarded in criminal cases by the presiding judges. Statistics were currently being compiled on compensation for racist and xenophobic crimes. It was difficult to ascertain the reason for the reported rise in such crimes, but research was being conducted into the phenomenon. The proposals of a working group on racist violence had raised awareness within the judicial system of the need for further training for police officers, the prosecution service and court officials, and such training programmes now existed.

17. With regard to the 1996 Supreme Court ruling concerning a youth found guilty of wearing Nazi symbols in public, it had been decided that the youth had expressed contempt for all ethnic groups apart from the Nordic one. The racist articles published in four daily newspapers had been widely criticized, although in general terms it was difficult to determine what the consequences of such articles were. The names and photographs of people convicted of racist crimes had been published, along with that of a suspect in the case, although to her knowledge that suspicion had not led to a trial. With reference to Ms. Zou Deci's question about the crime committed against a well-known journalist, no one had as yet been apprehended. The Swedish delegation strongly disagreed with the contention that Swedish courts punished the victims rather than the offenders in cases of racist crime.

18. With regard to the number of foreigners in Swedish prisons, on 1 October 1999 non-Swedish citizens constituted 26 per cent of the total prison population, a figure similar to that recorded for 1998.

19. Mr. LINDQVIST (Sweden) said that the Government shared the Committee's concern about the situation of the Roma but it was difficult to provide more detail on that situation and on the Government's efforts to ensure their integration. One reason was that information about ethnic origin was not registered and the Government tended to concentrate on improving the situation of individuals rather than groups. He referred Committee members to the report on the situation of the Roma in Sweden which had been distributed to them and stressed that integration initiatives were under way in most municipalities and in broader areas such as the labour market and the health sector and efforts were being made to promote Roma culture and language, within the framework of the national integration policy.

20. There were four criteria for defining an official national minority: a sense of affinity or belonging; religious, linguistic, traditional or cultural factors which distinguished a group from the majority; self-identification, or the will as a group or as an individual to maintain that identity; and a history of long-lasting ties with Sweden. In general, the Government was very flexible and open when requested to provide support for initiatives aimed at promoting minority groups.

21. With regard to migration flows, he said that between 1990 and 1999, 430,000 residence permits had been granted: 188,000 to non-Nordic Europeans, 43,000 to Africans (including 16,000 Somalis), 20,000 to Latin Americans and 138,000 to Asians (including 43,000 Iraqis, 23,000 Iranians and 15,000 Turks). It was, however, difficult to say whether those groups as a whole were marginalized, since educational levels and socio-economic factors were more important than national or ethnic origin in determining a person's situation in Sweden.

22. He acknowledged that more information should have been included in the report on the crucial role played by the Ombudsman against Ethnic Discrimination. That office had received a 40 per cent increase in its budget in the most recent fiscal year, in part because of its increased responsibilities relating to the labour market under the new Ethnic Discrimination Ombudsman Act of May 1999. He noted the concerns raised in non-governmental organization (NGO) reports that the Ombudsman was not ensuring that employers complied with the provisions of the new Countering Ethnic Discrimination in Working Life Act. The Ombudsman had been of the opinion, however, that if forced to comply immediately employers would have had to adopt superficial, short-term policies and it had therefore been decided that, for the first year, priority would be given to informing employers of their new obligations so that they could adopt more long-term strategies. The Ombudsman intended to be more active in ensuring compliance in the future and seemed confident that the new Act would make employers more aware of the dangers of discrimination and protect the rights of all, including immigrants. Although there was some overlap between the competencies of the Ombudsman and the National Integration Office, discussions were under way to define their respective mandates more clearly, with the Ombudsman dealing more particularly with individual cases and the Integration Office dealing with the modification of existing structures in society which tended to induce discrimination.

23. Regarding follow-up to the Government's national minorities policy, the Government was approaching the issue with an open mind and a willingness to make whatever changes needed. Referring to a letter sent to the Committee by the Sami Council regarding a lack of adequate financing for that policy, he stressed that the Government firmly intended to address any outstanding issues in due time.

24. Turning to the question of participation rates in local elections, he recalled that since 1976 foreigners with three years' residency had had the right to vote. Unfortunately, the participation rate for immigrants had been dropping, and currently stood at 35 per cent, reflecting a general trend among the Swedish population towards decreased participation. Factors such as age, sex, origin, location and socio-economic situation tended to influence participation rates and the Government hoped that ongoing in-depth analysis of those factors would enable it to take measures to increase those rates for the general population as well as minorities.

25. With regard to the new national integration policy, he referred Committee members to the fact sheet on "Sweden, the Future and Diversity" which had been distributed to them. The Government saw ethnic and cultural diversity as a point of departure for the development of general policies and their implementation in all sectors of society. Government agencies were currently studying how the new integration policy would affect immigrants and national minorities and a number of steps had been taken to promote integration: the National Integration Office was responsible for ensuring implementation of policies at all levels of society, the Countering Ethnic Discrimination in Working Life Act banned discrimination and required employers to promote ethnic diversity in the workplace, integration policies were being mainstreamed at all levels of Government using the experience gained in gender mainstreaming, and a Metropolitan Development Policy had been implemented. The latter had been created because most immigrants tended to be concentrated in urban areas where there were higher levels of unemployment, social assistance and crime. Whereas in the past there had been a tendency to develop stopgap projects which had little effect on the long-term situation, the new policy focused on processes and a bottom-up approach involving minorities and immigrants in defining their needs and making recommendations to the Government which were then included in formal local development agreements between municipal authorities and the federal Government, with fund-sharing arrangements for the ensuing initiatives. The Government had allocated 2.1 billion Swedish kronor for such initiatives in the current year.

26. There was no easy answer to the situation of "travellers". There were currently approximately 20,000 travellers in Sweden; like the Roma, they had arrived in Sweden some 400-500 years previously, and their language was also similar to the Roma language.

27. Mr. ABOUL-NASR said he wished to clarify the question he had raised concerning the international conference on the Holocaust referred to in paragraph 98 of the report (CERD/C/362/Add.5). He welcomed the holding of the conference, but wondered whether equal attention was given in schools to other crimes against humanity and other genocides which had occurred, such as crimes against the indigenous peoples in the Americas or against Afro-Americans during the slave-trade period.

28. Mr. RECHETOV asked if the delegation could explain the use of the term "unlawful discrimination", since it implied that Swedish law recognized "lawful discrimination"; that would be in violation of the Convention, which called for the elimination of all forms of racial discrimination.

29. Mr. DIACONU acknowledged that Sami land rights had to some extent been recognized, including the right to use the land for the ancient practice of reindeer husbandry, but there were still problems of conflict between Sami land rights and the land rights of other groups; indeed, the rules regarding Sami land rights were the main obstacle to Sweden's ratification of ILO Convention No. 169. It was essential for the boundaries of Sami lands to be clearly identified and the scope of their hunting and fishing rights on their traditional lands clarified. Currently Sami land rights did not seem to be adequately guaranteed or at least adequately enforced, as had also been stated in reports by NGOs.

30. Ms. JANUARY-BARDILL noted that the State party's position on social issues was often exemplary and much information had been provided on the socio-cultural integration of immigrants. She was concerned, however, that rather less had been said about the political integration of minorities and immigrants into the decision-making structures of the Government and requested more information on their participation in government and decision-making at the local and provincial levels, and in particular at the national level.

31. Mr. BOSSUYT asked whether the residence permits that had been issued over the previous decade had been issued to persons who had received them before emigrating or to illegal immigrants who had then received them.

32. Mr. MAGNUSON (Sweden) said that admittedly the Sami land rights question was a complicated one in a rule-of-law society. In relation to such special rights, the Government must carefully analyse whether it could live up to the provisions of ILO Convention No. 169. Norway, for instance, a signatory of that Convention, had been criticized for its interpretation of the term "ownership" as against "usufruct".

33. Sweden had a long tradition of restricting immigration. Immigrants were seldom job-seekers; the vast majority were asylum-seekers coming without prior residence permits and, once they were established, their families generally joined them. Immigration to Sweden by nationals of the European Union and of course of the Nordic countries was unrestricted.

34. Ms. LINDELÖR (Sweden) said she agreed that the term "unlawful discrimination" was infelicitous, but that was the exact term used in the Penal Code to define the specific criminal act of discrimination. It did, however, cover all aspects of racial discrimination, and therefore involved no exclusionary intention.

35. Responding to a question asked the previous day, she said that 14 per cent of the candidates to the National Police Academy had come from ethnic minorities in 1999.

36. The CHAIRMAN suggested that the Government might consider amending the term "unlawful discrimination" in its Penal Code in order to avoid having it misconstrued.

37. Mr. LINDQVIST (Sweden), agreeing that political integration of minorities was equally important, observed that the longer an immigrant or a member of a minority stayed in Sweden, the higher the degree of participation in public life. The Government, feeling that much had to be done to increase such participation, had taken a number of steps: it was preparing a report on why immigrants had such a low turnout at elections and why they did not stand for election. It had adopted an action plan for ethnic diversity in all ministries, the aim being to reflect the country's ethnic diversity at every level of the Government. It was, finally, intending to establish a major commission to analyse the distribution of power and the uneven influence over the political process as between ethnic Swedes and the minority groups, and to put forward proposals to encourage the political integration of minorities.

38. Mr. MAGNUSON (Sweden), referring to the official attention paid to genocides other than the Holocaust, said that Sweden had been very involved in supporting anti-apartheid activities and the subject had been taught in schools. The Government's whole aim was to foster tolerance and fight racism by enlightening schoolchildren and the public about atrocities that had been committed elsewhere in the world and in other historical periods. There was no need for concern on that account.

39. Mr. de GOUTTES (Country Rapporteur) said that the quality of the dialogue with the delegation had as usual borne out Sweden's reputation for high standards in protecting human rights. Despite its traditional tolerance and openness, Sweden, like the other Scandinavian countries, had been struck by a rising tide of xenophobia among the population, together with a more violent strain of racism promulgated by small groups of young white supremacists. Since the presumed economic root causes no longer existed to such an extent, it might be assumed that the likely cause lay in the gap between economic change for the better and a change in the mentality that had prevailed in bad economic times. That was where the role of education and the media came into play.

40. His first recommendation would be that the Government must be especially firm and vigilant in stamping out racist acts, incitement to racism and any form of discrimination in everyday life. As to the dissemination of racist ideas, freedom of expression did not enter into it; racism was not a matter of opinion, it was a crime that directly jeopardized the public interest, even when only a small group of people was involved. The Committee would await with interest further information and statistics regarding action taken by the police and the courts on such matters.

41. He also suggested that the Government should give fuller statistics on demographic composition and on the social, economic and cultural indicators that would enable the Committee to assess the integration and improved status of disadvantaged groups like the Sami, the Roma, the Finns and immigrant groups. Further information would also be appreciated regarding efforts to implement article 4 fully, especially in combating racist organizations. The Government was encouraged to publicize the Convention as widely as possible and to cooperate closely with NGOs in the country, if possible involving them in the preparation of periodic reports.

42. The CHAIRMAN expressed appreciation for the frank, constructive dialogue. Sweden's standards were high and its commitment was clear. The Committee looked forward to receiving Sweden's next periodic report.

43. Mr. MAGNUSON (Sweden) said that it was always a pleasure to see the Committee's interest in his Government's efforts to comply with the Convention, to which it was very seriously committed. The delegation was grateful for the Committee's scrutiny, and its recommendations and comments would be studied carefully.

44. The delegation of Sweden withdrew.

Draft concluding observations concerning the initial, second and third periodic reports of Slovakia (CERD/C/57/Misc.20/Rev.2; future CERD/C/57/CRP...)

45. Mr. PILLAI (Country Rapporteur), introducing the draft concluding observations, said that the draft incorporated changes proposed by other Committee members. The length of the text was due to the fact that the report under consideration was an initial report.

46. Mr. ABOUL-NASR, noting that the question of the Roma minority was addressed in no less than 10 of the draft's paragraphs, suggested condensing some of those paragraphs.

47. Mr. PILLAI (Country Rapporteur) pointed out that a good portion of the report and the discussion had in fact focused on the situation of the Roma. He was open to suggestions on ways of condensing the text.

48. The CHAIRMAN invited the Committee members to consider the draft concluding observations paragraph by paragraph.

Paragraphs 1 to 7

49. Paragraphs 1 to 7 were adopted, subject to minor editorial changes in paragraphs 2 and 6.

Paragraph 8

50. Mr. ABOUL-NASR, observing that there was no requirement for States parties to engage in self-critical assessments when submitting their reports, and that very few actually did, asked whether it was appropriate to regret the absence of such an assessment.

51. Mr. DIACONU proposed that the paragraph should be shortened by deleting "relating to the implementation of the Convention" and "a self-critical assessment of the situation of discrimination in the State party, as well as" from the first sentence. The last sentence too should be deleted.

52. Mr. PILLAI (Country Rapporteur) supported the amendments proposed by Mr. Diaconu, which had the merit of addressing the concerns of Mr. Aboul-Nasr.

53. Paragraph 8, as amended, was adopted.

Paragraphs 9 and 10

54. Mr. BOSSUYT, noting that the racial segregation that existed in Slovakia was not imposed by the Government, proposed that the words "de facto" should be inserted before "racial discrimination" in the first line of paragraph 9.

55. Mr. RECHETOV proposed that the first sentence of that paragraph should read "The Committee is concerned about settlement patterns in respect of the Roma minority". The statement to the effect that racial discrimination existed was somewhat clumsy. He proposed that paragraph 9 should be made longer, with the deletion of paragraph 10.

56. Mr. PILLAI (Country Rapporteur) said that it was important to maintain the substance of paragraph 10, which referred to concrete cases.

57. Mr. DIACONU said he considered that it would be excessive for two entire paragraphs of the concluding observations to be devoted to the subject of segregation. He proposed that paragraphs 9 and 10 should be merged to read: "The Committee is concerned about settlement patterns in respect of the Roma minority, and in particular about reports concerning two municipalities which have issued decrees banning the Roma from their territory, and about the length of the proceedings undertaken to lift those decrees. The Committee recommends that the State party review legislation regulating local residence permits and investigate promptly and thoroughly incidents of housing discrimination. The Committee invites the State party to monitor trends which give rise to racial segregation, and to give speedy consideration to such cases and indicate its findings in subsequent reports."

58. Mr. PILLAI (Country Rapporteur) said that he had no objection to combining the two paragraphs.

59. The CHAIRMAN invited Mr. Diaconu to submit his proposed amendment to paragraphs 9 and 10 in writing at the next meeting.

Paragraph 11

60. Mr. ABOUL-NASR inquired whether the use of the term "skinhead" was accepted by members of such groups.

61. Mr. PILLAI (Country Rapporteur) said that the term was widely used among members of such groups, and that it had been employed in the State party's report.

62. Mr. de GOUTTES suggested that the term "skinhead" should be placed in quotation marks in the French version.

63. Paragraph 11 was adopted.

Paragraph 12

64. Paragraph 12 was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

65. The CHAIRMAN informed the Committee that the Chief of Administration a.i. of the Office of the United Nations High Commissioner for Human Rights, who had been scheduled to attend the Committee's next meeting, would instead prefer to meet the Chairman privately in the afternoon. He asked all members who had experienced problems with the payment of terminal expenses or other financial arrangements to inform him of such difficulties in writing in advance of that meeting. He took it that the Committee wished to authorize his informal meeting with the official in question to discuss such matters.

66. It was so decided.

The meeting rose at 1 p.m.